



HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

Testimony :: Hon. Christopher H. Smith

Ranking Minority Member - Commission on Security and Cooperation in Europe

Thank you, Mr. Chairman, and welcome to our witnesses and everyone joining us this morning.

Mr. Chairman, I am sorry to say that, thirty-five years after the signing of the Helsinki Final Act, and twenty years after the fall of the Berlin Wall, the press is not free and journalists are targeted for harassment, beatings, or even murdered, in a number of OSCE countries—most of them semi- or pseudo-democratic states that emerged from the breakup of the USSR. Those slain have often crossed local officials and their private-sector cronies by uncovering corruption or investigating human rights abuses.

Mr. Chairman, this commission has a long and proud record of meeting with and advocating for, persecuted journalists and the surviving relatives of journalists who have been murdered. Today I particularly want to remember Georgiy Gongadze, a Ukrainian journalist of Georgian origin, tragically kidnapped and murdered while investigating high-level corruption. We are approaching the 10th anniversary of his death, and, while some officials are now in prison for the crime, those who gave the order to kill him have yet to be brought to justice—a former Interior Minister was murdered just hours before he was to provide testimony in the case. I urge the government of Ukraine to pursue every lead in this case—wherever and to whomever they may lead. (I understand his widow, Myroslava, is here with us today. Please stand up so that we can thank you for continuing to struggle for justice in your husband's case.)

Mr. Chairman, journalists are also affected by the sad trend of recent years to transform the Internet into a tool for censorship and surveillance. This is not limited to China, southern Asia, the Middle East, and Africa. Two of Reporters Without Borders' top twelve "Enemies of the Internet" are OSCE participating states—Turkmenistan and Uzbekistan. And, also in respect of the Internet, three of this same NGO's eleven "Countries under Surveillance" are participating states: Belarus, Russia, and Turkey.

Mr. Chairman, Congress has a responsibility to promote the human right of freedom of expression, enshrined in all the major human rights agreements, and OSCE agreements. I believe that the Global Online Freedom Act, the legislation I crafted in 2006 and re-introduced in this Congress, by giving IT companies the US-government back-up they need to negotiate with repressive governments, would do a great deal to improve the atmosphere of media freedom globally, including in OSCE countries.

Let me describe the bill's key provisions. The bill would establish an Office of Global Internet Freedom in the State Department, which would annually designate "Internet restricting countries"—countries that substantially restrict Internet freedom relating to the peaceful expression of political, religious, or ideological opinion or belief. US IT companies would have to report to the State Department any requirement by a repressive government for filtering or censoring search terms—and the State Department would make the terms and parameters of filtering public knowledge, thus "naming and shaming" the repressive countries.

US IT companies would also have to store personally identifying information outside of Internet-restricting countries, so that the repressive governments wouldn't be able to get their hands on it to track journalists or dissidents. US IT companies would have to notify the Attorney General whenever they received a request for personally identifying information from a repressive country—and the Attorney General would have the authority to order the IT companies not to comply, if there was reason to believe the repressive government seeks the information for other than legitimate law-enforcement purposes.

In short: by giving US IT companies the back-up of the U.S. government, it would help to set a new global standard. If an OSCE government tells them to filter a search term, they can point to the GOFA and say that US law doesn't permit it. If the government's Internet police intercept a human rights activist's e-mail, and demand the company turn over personally identifying information on the account, the company will notify the AG, who can then bring the weight of the US government into the matter.

GOFA is ready to go to the House floor. It has the distinction of being endorsed by Google as well as a long list of human rights groups—Freedom House, Reporters Without Borders, Amnesty International, Human Rights Watch, Committee to Protect Journalists, and others. In the last Congress it was passed by three committees and was ready to go to the floor—and I

believe it would have easily won a floor vote. But it was kept off the floor by heavy lobbying and politics.

That's why we need the US government to weigh in with a bill that would help the Internet companies do what they ought to do, and what some of the best of them, like Google, clearly want to do—stand up to repressive governments.